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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,624	03/22/2005	Gerard Eduard Rosmalen	NL 020861	4151

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

ROSENAU, DEREK JOHN

ART UNIT PAPER NUMBER

2834

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/528,624	Applicant(s) ROSMALLEN ET AL.	
	Examiner Derek J. Rosenau	Art Unit 2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,8,10,11 and 13-17 is/are rejected.
- 7) ☒ Claim(s) 3-7,9 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/22/05</u> <u>12/1/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Objections

1. Claim 12 recites the limitation "said elongated driving members" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.
2. Claim 13-16 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims 13-16 have not been further treated on the merits with respect to prior art.

Claim Rejections - 35 USC § 112

3. Claims 13-16 provides for the use of a driving apparatus, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 13-16 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under

35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 8, 10, 11, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Saito et al. (US 5225941).

6. With respect to claim 1, Saito et al. discloses a driving apparatus comprising at least two driving members (Fig 11, items 202 and 203) and at least one driven member (Fig 11, items 201 and 225), wherein each of the at least two driving members is frictionally engaged to the at least one driven member to move said driven member wherein the friction between each driven member and each driving member is such that the driven member moves when over half of the driving members being in frictional engagement with said driven member are moved simultaneously between a first and a second position, wherein the friction between each driven member substantially remains stationary when less than half of the driving members being in frictional engagement with said driven member are moved (column 16, lines 39-45).

7. With respect to claim 2, Saito et al. discloses at least two piezoelectric elements (Fig 11, items 212 and 217) arranged to move the at least two driving members independently (column 16, lines 39-45).

8. With respect to claim 8, Saito et al. discloses that each of the driving members is at least partially surrounded by part of the at least one driven member (Fig 11, items 201 and 225).
9. With respect to claim 10, Saito et al. discloses that each driving member comprises an elongated member (Fig 11, items 202 and 203).
10. With respect to claim 11, Saito et al. discloses that the driving members are substantially parallel over a certain distance (Fig 11, items 202 and 203).
11. With respect to claim 17, Saito et al. discloses an optical system comprising a slide and the driving apparatus according to claim 1, wherein the slide is fixed to the at least one driven member (Fig 11, items 201 and 225).

Allowable Subject Matter

12. Claims 3-7, 9, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
13. The following is a statement of reasons for the indication of allowable subject matter:

the prior art does not disclose or suggest "at least three driving members" in combination with the remaining claim elements as set forth in claims 3-5, 9 and 12.

the prior art does not disclose or suggest "at least four driving members" in combination with the remaining claim elements as set forth in claim 6.

the prior art does not disclose or suggest "at least three driven members" in combination with the remaining claim elements as set forth in claims 7.

Conclusion

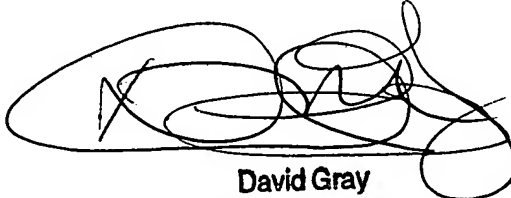
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derek J. Rosenau whose telephone number is 571-272-8932. The examiner can normally be reached on Monday thru Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Gray can be reached on 571-272-2119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Derek J Rosenau
Examiner
Art Unit 2834

DJR
12/27/2005



David Gray
Primary Examiner